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SIPDIS

DEPARTMENT FOR EUR (JONES), EUR/SCE (FOOKS, JUKIC); NSC FOR
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SUBJECT: BOSNIA - PEACE IMPLEMENTATION COUNCIL HOLDS OFF ON
DETERMINING DATE FOR OHR'S CLOSURE

REF: SARAJEVO 934

Classified By: Ambassador Charles English. Reasons 1.4 (B) and (D).

¶1. (C) Summary: At the October 18-19 session of the Peace Implementation Council (PIC) in Sarajevo, member state representatives expressed concern over continued attempts by the Republika Srpska (RS) to obstruct the work of the Office of the High Representative (OHR). PIC members also cited lack of progress on the five objectives required for Bosnia to transition from OHR to a non-executive EU Special Representative (EUSR) as a reason to leave the subject of OHR's closure for future PIC sessions. Notably, Russia shared this position. In addition to internal meetings, the PIC met individually with representatives of Bosnia's seven leading political parties. RS PM Milorad Dodik warned that he would call for a referendum in the RS on any future OHR decisions and that the RS government would pass a law prohibiting RS compliance with those decisions. Party leaders shared divergent views on the Butmir constitutional reform process and what kind of reforms Bosnia needs. Tihic and the Croat leaders also underscored their inability to resolve the dispute over the mayoralty of Mostar (Reftel), and they urged the HighRep to step in. End Summary.

PIC Agrees to Keep OHR Open for Now

¶2. (C) At the October 18-19 PIC session, HighRep Valentin Inzko presented a sobering assessment of the political situation in Bosnia and Herzegovina. He said that it has become clear since August that Bosnian authorities have little interest in implementing the five objectives and two conditions ("five plus two") required for OHR closure and are apparently "waiting out" the international community. He stressed that it was up to the PIC member states to determine whether to insist upon full compliance with "five plus two" and that without this support, it made no sense for his Office to push the "five plus two agenda." Inzko added that the "status quo was unsatisfactory" and expressed hope that a decision to close OHR would be made in February, and for the international community to take a fresh approach toward Bosnia. All PIC members -- notably, including Russia -- agreed with the HighRep that it was not the time to discuss OHR's transition to EUSR.

State and Defense Property Remain Unresolved

¶3. (C) HighRep Inzko described the efforts by his staff to create an inventory of state property due to inaction by the government and attempts by the RS until recently to obstruct

the execution of this inventory. He stated that now that the RS has opened its cadastral offices to allow OHR to conduct the inventory, he expects the inventory to be completed within a month. On defense property, HighRep Inzko noted that the submission by President Komsic of Bosnia's application for NATO's Membership Action Plan (MAP) underscores the need for progress on defense property. He reported that OHR had only recently been able to collect data related to defense property from the RS. The Deputy Commander of NATO Headquarters in Sarajevo further elaborated on the state of play on moveable property, noting that inspection teams are inspecting 22 weapons and explosives storage sites to determine what was safe and what was unstable. He reported that NATO had sent a letter to the Presidency in which it had proposed a March 31, 2011 deadline by which unsold property should be slated for destruction. As for immovable defense property, the Deputy Commander noted that NATO had in its possession the deeds for all sites to be included in an annex that laid out technical details required for future defense purposes, but that the outstanding issue remains who owns the sites.

Backsliding on Fiscal Sustainability and the Rule of Law

14. (SBU) HighRep Inzko reported that though the PIC members had declared that fiscal sustainability had been fulfilled, Bosnia had made little progress in this area and that there had been attempts to roll back the progress that has been made. Among the problems faced are the failure of the Indirect Taxation Authority's (ITA) to resolve a dispute

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surrounding the allocation of indirect tax revenue between the entities, the fact that the ITA Director position has gone unfulfilled for the past year due to continued wrangling by the political parties over appointments of several director positions, and the failure of the National Fiscal Council to establish itself as a proper coordination mechanism. Regarding the rule of law, HighRep Inzko noted that since the adoption of the National War Crimes Strategy (a PIC objective) last December, Bosnia had fallen short of reaching established goals and timelines. Most notably, it has not yet established a central database of war crimes cases nation-wide. Similarly, there has been little progress made to implement the National Justice Sector Reform Strategy. HighRep Inzko pointed out that RS Ministry of Justice representatives have not participated in meetings of a recently established technical secretariat and are not submitting required reports, while Federation representatives are submitting reports late.

PDHR Gregorian: Brcko May Face Threats from the RS

15. (SBU) PDHR and Brcko Supervisor Raffi Gregorian expressed disappointment with the failure of the entities to implement technical requirements associated with the termination of the supervision of Brcko, which necessitated the Sept 18 decision by the HighRep. The RS government refused to publish the HighRep's decision in its Gazette, which leaves the matter open and blocks the termination of the supervision. PDHR Gregorian also reported on RS plans to dissolve the electricity company Elektroprenos (also known as Transco), which, if implemented, would result in the RS asserting control and ownership over electricity transmission lines to and through Brcko, in violation of the Final Award. He made clear that public property in Brcko can only be disposed of by Brcko District with the approval of the Supervisor, and that only the District and state-level institutions can exercise authority in Brcko District. Gregorian also expressed concern over a recent letter by the Chairman of the State Electricity Regulatory Commission (SERK) which questioned the authority of the SERK to regulate electricity in Brcko District. This regulatory authority had been introduced in the decision of the HighRep on September 18.

¶6. (C) PDHR Gregorian warned PIC members that the RS may attempt to cut off electricity to Brcko District. However, he said that he and Brcko officials are exploring alternate sources of electricity and that in the event the RS does cut off electricity to Brcko District, he would notify the Arbitral Tribunal of serious non-compliance by the RS. He also noted that RS blockage of a change in citizenship provisions in state and entity law that could result in massive electoral fraud in next year's general elections. He urged the PIC members to send a strong message to the RS about its obstructionist stance towards Brcko District, which Germany, among other countries, agreed to do.

Dodik Inflammatory on OHR

¶7. (C) As is customary, the PIC met with Bosnia's political leaders but, in a break from tradition, met with them individually rather than as a group. Alliance of Independent Social Democrats (SNSD) chairman and RS PM Dodik delivered a strident message to PIC members with his declaration that "OHR publishes negative reports on the RS, so we do not support your work." Citing the 20 cases in which HighRep Inzko has used the Bonn Powers, Dodik opined that "robust intervention and micromanagement have become a trend. Will the HighRep get involved in the weather too?" He further warned that "if OHR tries to impose any further decisions that affect the RS, we will organize a referendum to decide whether to accept those decisions, and I will personally advocate against it. The RS will then implement a law prohibiting compliance with OHR." He added that "Inzko is a good man, but those in the HighRep's office who are ruining the country" are putting too much pressure on him. He concluded that BiH should talk about reforms only with EU member states, not with countries outside the EU.

Other Party Leaders Discuss Transition

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¶8. (SBU) HDZ-BiH President Dragan Covic declared that his party supports transition as soon as possible so as not to hold OHR hostage to the failure of local leaders to reach agreement. Social Democratic Party (SDP) chairman Zlatko Lagumdzija said that it is time to transition from OHR to EUSR (but one with strong powers) or a "Peace Accord Protection Mission." On the other side, Beriz Belkic -- representing Party for BiH (SBiH) chairman Haris Silajdzic, who had fallen ill -- urged the PIC to insist on the full implementation of "five plus two" before closing OHR, adding that any CR must endow domestic institutions with the mechanisms to prevent anti-Dayton activity after OHR departs. HDZ-1990 President Bozo Ljubic encouraged the PIC to separate OHR from EUSR and allow OHR to keep the Bonn Powers. Party of Democratic Action (SDA) chairman Sulejman Tihic, who usually advocates strongly at the PIC for OHR to remain in place, focused on other issues this time.

All Concerned about Butmir Package

¶9. (SBU) All party leaders focused on the content and prospects for success of the Butmir package. Almost all welcomed U.S.-EU engagement and encouraged continued efforts. SDA President Sulejman Tihic declared that the Butmir package "gives us hope of a return to compromise in BiH." He said that he encouraged Dodik to accept the package but that Dodik replied that he has propagated a certain message for the purposes of elections, and he cannot retreat from that message now. Dodik unequivocally stated, "you are wasting your time; we will not accept the Butmir package. And I am ready to take the blame for its failure." Belkic reiterated Silajdzic's objection to the fact that the package would retain entity voting. Lagumdzija declared that SDP will not

accept anything less than the Butmir proposal, as "reducing the package to Dodik's level would prove that rude tactics work." Covic expressed disappointment that the Butmir package does not "ensure the equality of all constituent peoples" and suggested that the PIC first forge an agreement on the package among the "Prud Three." Ljubic noted that a "Dayton Two" to reorganize BiH would be necessary. Party of Democratic Progress (PDP) President Mladen Ivanic expressed pessimism on the prospect of major changes, arguing that a "big bang approach" is never productive. Prime Minister and SNSD member Nikola Spiric complained that he received his copy of the Butmir package from the media and that he was not included in the negotiations.

Whither Mostar

¶10. (SBU) Several political party leaders raised the subject of the Mostar mayoralty dispute with PIC members; due to a lack of action by the city council who must make the selection, the city has been without a mayor for over a year. Tihic asked the PIC to resolve the dispute, even if it means changing the Mostar City Statute. One option, he posited, would be to lower the necessary threshold in the City Council for electing the mayor. Covic said several times that "Mostar should not be a case study" and should be subject to the same laws and voting system as other municipalities in BiH (meaning the direct election of the mayor). He encouraged the HighRep to declare Beslic the mayor, as Beslic has captured the majority in 17 rounds of elections. He concluded by noting that the Mostar stalemate illustrates relations throughout BiH. Spiric also called for the direct election of the Mostar mayor, citing the stalemate as an example of the culture of dependency in which BiH is enmeshed.

Planning for Post OHR Future

¶11. (SBU) At the conclusion of the PIC, European Council Balkans Director Zoltan Martinusz reported that planning for OHR's transition to EUSR is "as advanced as it can be." He did not provide details except to say that the legal and political modalities of including non EU states in the enhanced EUSR still need to be worked out. He also expressed confidence that the enhanced EUSR would be operational within three months of a decision to close OHR.

¶12. (U) The PIC communique can be found on OHR's website at www.ohr.int. The next PIC will take place in Sarajevo on

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February 24 and 25, 2010.

Comment

¶13. (C) The discussions at the PIC reaffirmed our assessment that Bosnia is not ready for OHR transition. Moreover, the prominence of the Butmir package in all discussions highlighted the desire among most party leaders of the need for change as well as the challenging political environment. The challenge to OHR mounted with Dodik's anti-OHR rhetoric at an all-time high, culminating this time in his blatant declaration of intent to call a referendum on future OHR decisions. We will need to consider ways both to support OHR and to deal with possible Dodik actions, as we continue forward on the Butmir initiative. End Summary.

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